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## Economic Affairs Interim Committee

### 64th Montana Legislature

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Aug. 30, 2016

TO: Montana's Congressional Delegation  
FROM: Economic Affairs Interim Committee

via email

Dear Sen. Jon Tester/Sen. Steve Daines/Congressman Ryan Zinke:

Montana's Economic Affairs Interim Committee is making a second appeal to urge the state's Congressional Delegation to promote changes in the Airline Deregulation Act as well as to push related efforts at the federal level to realign a playing field now tilted most severely against a patient needing air ambulance services in rural states.

As asked in a Feb. 5, 2016, letter, the committee is hoping Montana's Congressional delegation will push Congress to remove what now is a general preemption that prevents states from regulating air ambulance rates. Although the Airline Deregulation Act is important, the competition expected under that act does not necessarily extend to air ambulances, particularly those serving rural areas. By giving air ambulances immunity from state pricing oversight, the Airline Deregulation Act leaves uninsured, sick customers at the mercy of often out-of-state corporations. Even insured patients do not necessarily fare well economically if the air ambulance providing service refuses to participate in-network or be a preferred provider. Although states have some regulatory influence over insurers, the lack of regulatory authority over air ambulance providers means any effort is one-sided and not necessarily cost-effective for the patient.

This appeal also extends to urge action by our Congressional Delegation on bills that address shortfalls as Medicare and Medicaid lag behind on appropriate reimbursements for air ambulance services. These bills include S 1149 and S 377, both now in the Senate Finance Committee, and H.R. 817, H.R. 822, and H.R. 3609, all in the House Energy and Commerce and Ways and Means Committees.

The Economic Affairs Interim Committee appreciates the delegation's efforts to date to get a study of air ambulance billing but urges continued efforts to help those in dire circumstances needing emergency medical care at a price that does not break the bank.

For its part, the bipartisan committee, comprised of four Democrats and four Republicans split evenly between legislative houses, voted today unanimously to adopt as committee bills two approaches intended to help consumers. One would hold an insured consumer harmless from balance bills by setting up a structure in which the consumer's insurer would choose among various payment options and, if the amount remained disputed by the air ambulance provider then voluntarily enter into negotiations to determine different amounts. The other bill would revise current state law and state that memberships offered by private air ambulances are an insurance product to be regulated by the insurance commissioner.

As you know from our previous letter to your office, certain air ambulance providers in Montana are

balance billing residents tens of thousands of dollars for emergency flights to access care unavailable in Montana. They contend the costs of 24/7 staffing and equipment are the reasons for the high bills, as is the need to recoup the costs of serving patients covered by Medicare or Medicaid whose programs do not come close to paying actual costs. (This argument is provided even though one air ambulance submitted no claims for Medicaid patients in State Fiscal Year 2015. Claims for most Medicaid patients in Montana were handled by hospital-affiliated air ambulance providers.<sup>1</sup> These services generally are in-network.)

This situation affects all states but hits rural areas particularly hard. We urge you to make changes to:

- revise the Airline Deregulation Act to allow rate setting regulation by states through insurance laws for air ambulances either as part of insurance networks or through guidelines that establish reasonable and customary billing, fair-market billing, or billing based on a percentage of Medicare;
- revise the Airline Deregulation Act to prevent balance billing on truly emergency transports;
- revise the Airline Deregulation Act to recognize that air ambulance providers that sell memberships may do so without preemption and may be regulated by the state, much as automobile clubs now are regulated;
- require more timely changes to Medicare reimbursement rates for air ambulances to keep up with medical inflation so that air ambulances are not cost-shifting to non-Medicare patients the cost of patients covered by this government program; and
- make clear that advice given to patients indirectly in emergency rooms regarding transport options is not in violation of the Emergency Medical Treatment and Labor Act.

Thank you for your consideration of these actions.

Sincerely,

Rep. Ryan Lynch  
Presiding Officer

On behalf of the Economic Affairs Interim Committee

Sen. Gordon Vance  
Vice Presiding Officer

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<sup>1</sup>See

<http://leg.mt.gov/content/Committees/Interim/2015-2016/Economic-Affairs/Committee-Topics/Ambulance/air-amb-mt-medicaid-claim-countSFY15.pdf>